

# **APPLICATION PROCEDURES FOR THE SPENCER CONSERVATION COMMISSION**

There are three different avenues by which an applicant or citizen can appear before the Spencer Conservation Commission:

1. The filing of a Notice of Intent (NOI) application;
2. The filing of a Request for Determination of Applicability (RDA) application; and
3. The filing of a written request to address the Commission.

Each application/procedure is outlined in more detail below. It must be understood that the NOI & RDA applications are governed by state statute (M.G.L. ch. 131 §40) and the regulations promulgated by DEP under the statute (310 CMR 10.00) as well as the local town bylaw. It should be remembered that by statute, any local wetlands bylaw must be "more restrictive" than the state's regulations. One of the ways Spencer is more restrictive is by defining the 100' buffer zone as a resource area.

The length of time from submission of an application to a final decision by the Commission varies significantly depending on the complexity of the application, the need for peer review, coordination with other bodies, e.g. the Planning Board, and any comments from review agencies such as DEP. All NOIs and RDAs are public hearings requiring a published legal notice at the applicant's expense.

It is absolutely critical to remember that the final decision making authority under the Wetlands Protection Act and the local bylaw is the Conservation Commission.

## The Notice of Intent (NOI) application process:

- A complete application package is submitted to the Conservation Commission in triplicate and concurrently one copy is submitted to the DEP regional office in Worcester. The application form (WPA form 3) is a state form and dictates all of the information required;
- The appropriate fees must be submitted with the application. The fees are determined by the state regulations as well as the local bylaw;
- The Conservation Commission will place the ad for the public hearing but the timing of the ad is governed by state regulations as well as the newspaper's requirements and this may or may not impact the agenda where the application will be heard. There is a state mandate that the hearing must be opened within 21 calendar days of receipt of the application. If there is a timing issue, a waiver of the 21 day criteria is obtained from the applicant;
- The date and time of the hearing is given to the applicant for the abutter notifications. This notification must be sent to all abutters within 300' of the subject property via

CERTIFIED MAIL. Certificates of mailing do not meet the statutory requirements and should not be used. Evidence of the mailing must be submitted to the Commission at the public hearing by the applicant. The abutters list is obtained from the Spencer Assessor's office;

- The agent reviews the application, conducts a site inspection, generates a review and prepares recommendations to the Commission. If peer review is necessary, the Commission will not take testimony until such time as the peer review is complete and any recommendations for plan revision is also complete;
- When all reviews and plan revisions are complete, the Commission will go forward with the hearing on the application;
- When the Commission is satisfied that all necessary information and an NOI # from DEP has been received, the hearing will be closed and an Order of Conditions (OOC) issued, which must be done within 21 days of the close of the hearing;
- Once the OOC has been recorded in the Registry of Deeds, and all necessary erosion control is in place and certified as such by the project engineer, the Conservation Commission will sign off on the building permits;
- When the project is complete, the applicant must apply for a Certificate of Completion (COC) from the Commission on DEP form 8a; and
- When the COC is voted on by the Commission, it is also recorded in the Registry of Deeds to close out the project.

The Request for Determination of Applicability (RDA) application process:

- The RDA application is a vehicle whereby the applicant is in essence asking the Commission if an NOI is required for the contemplated work. It is usually used when the work is in the buffer zone as opposed to the resource area and does not involve significant land alteration or impact;
- The application form is also a state form (WPA form 1);
- The appropriate fees must be submitted with the application;
- The Conservation Commission will place the ad for the public hearing but the timing of the ad is governed by state regulations as well as the newspaper's requirements and this may or may not impact the agenda where the application will be heard. There is a state mandate that the hearing must be opened within 21 calendar days of receipt of the application. If there is a timing issue, a waiver of the 21 day criteria is obtained from the applicant;
- The agent reviews the application, conducts a site inspection, generates a review and prepares recommendations to the Commission;
- When all reviews and plan revisions are complete, the Commission will go forward with the hearing on the application;
- When the Commission is satisfied that all necessary information has been received, the hearing will be closed and a decision on the application rendered. Again this must be done within 21 days of the close of the hearing.

A written request to address the Commission:

- This is used when a citizen wishes to address the Commission outside of a public hearing;
- The “applicant” must be the property owner or if not the owner, must have sent a copy of the written request to the property owner via certified mail;
- This is not a public hearing; and
- An example of when this might be used is to discuss with the Commission of an action or decision by the Agent.